

ASHBY & GEDDES

ATTORNEYS AND COUNSELLORS AT LAW

500 DELAWARE AVENUE

P. O. BOX 1150

WILMINGTON, DELAWARE 19899

TELEPHONE
302-654-1888

FACSIMILE
302-654-2067

September 5, 2007

The Honorable Sue L. Robinson
United States District Court
844 King Street
Wilmington, Delaware 19801

VIA ELECTRONIC FILING

Re: *Abbott Laboratories, et al. v. Johnson and Johnson, Inc., et al.*,
C.A. No. 06-613-SLR

Dear Judge Robinson:

I am writing on behalf of the defendants (collectively "Cordis") in the above declaratory judgment action, in which a Rule 16 teleconference has been scheduled for 8:00 a.m. this Friday, September 7, 2007, and in which procedural motions by all parties are pending, including Cordis' motion to dismiss for lack of subject matter jurisdiction (D.I. 14) on the ground that there is no justiciable controversy between the parties that can support plaintiffs' request for declaratory relief.

The purpose of this letter simply is to alert the Court to a new development that we believe will obviate the need for a decision on any of the pending procedural motions. Specifically, Cordis has tendered a covenant not to sue on the patents at issue in this case, and late Friday we filed a new motion to dismiss on that basis (D.I. 68). Since briefing on that motion obviously is not yet complete, and since Your Honor therefore may not be aware of its filing or of our tender of the covenant, we thought the Court might appreciate being informed of this development now, in case it impacts how Your Honor wishes to prioritize consideration of the issues before the Court.

Respectfully,

/s/ Steven J. Balick

Steven J. Balick

SJB/nml
183814.1

cc: Frederick L. Cottrell, III, Esquire (by hand, and via electronic mail)
Edward A. Mas, II, Esquire (via electronic mail)
David T. Pritikin, Esquire (via electronic mail)